

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	ORDER GRANTING AMENDED
)	MOTION FOR MODIFICATION
vs.)	
)	
Bretton Robert Link,)	
)	Case No. 1:13-cr-129
Defendant.)	

Defendant Bretton Robert Link is charged by indictment with one count of conspiracy to distribute methamphetamine and one count of possession with intent to distribute methamphetamine within a school zone. On September 19, 2013, the court granted a Motion for Writ of Habeas Corpus Ad Prosequendum ordering that Defendant appear on the indictment in federal court on September 26, 2013, after which time the United States Marshal was directed to “**RETAIN** said detainee for all further proceeding as ordered by the Court, after which the detained shall be **RETURNED** to the original custodian.” Defendant appeared for his initial appearance and arraignment on September 26, 2013, and was ordered committed to the custody of the Attorney General.

On October 2, 2013, Defendant filed a “Motion for Modification of Habeas Corpus Ad Prosequendum.” (Docket No. 180). On October 3, 2013, Defendant filed an “Amended Motion for Modification of Habeas Corpus Ad Prosequendum.” (Docket No. 182). Defendant requests the court to order the United States Marshal to return Defendant to state custody so that he can be sentenced on state charges on October 25, 2013 and immediately begin his state sentence. The Government has not filed a response.

Local Rule 47.1 provides that upon service of a memorandum in support of a motion, an adverse party has fourteen days to file a response. D.N.D. Crim. L.R. 47.1(A). It further provides that an adverse party's failure to file a response may be deemed an admission that the motion is well taken. D.N.D. Crim. L.R. 47.1(E). More than fourteen days have lapsed since Defendant file his motion. The Government's failure to file a response may be deemed an admission that the motion is well taken. Accordingly, the court **GRANTS** the Amended Motion for Modification (Docket No. 182) and **ORDERS** that the United States Marshal shall return Defendant to state custody for his sentencing set for October 25, 2013 at 11:00 AM at the Burleigh County Courthouse or honor any writ issued by the state court. Defendant's original motion for modification (Docket No. 180) is deemed **MOOT**.

IT IS SO ORDERED.

Dated this 24th day of October, 2013.

/s/ Charles S. Miller, Jr.
Charles S. Miller, Jr., Magistrate Judge
United States District Court